

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

KESTER SANDY	:	CIVIL ACTION NO. 20-3290
	:	
v.	:	CRIMINAL NO. 04-324
	:	
UNITED STATES OF AMERICA	:	

MEMORANDUM

Savage, J.

March 10, 2021

Petitioner Kester Sandy, who is currently an inmate in Otisville Correctional Facility, Otisville, New York, has filed a *habeas corpus* petition under 28 U.S.C. § 2241. He is serving a sentence imposed by a New York state court. The government has moved to dismiss the *habeas* petition for lack of jurisdiction because Sandy is not in federal custody in this district.

A *habeas* petition filed under § 2241 must be filed in the district where the prisoner is confined, and the prisoner must name the custodian at the facility where he is being held as the respondent. *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004). The proper respondent is “the person who has custody over [the petitioner].” *Id.* At 434.

Petitioner is housed at Otisville Correctional Facility, Otisville, New York. The institution is in the Southern District of New York. Therefore, the petition should have been filed in that district, not this district.

Additionally, Sandy has named the United States of America as the respondent instead of his custodian. The proper respondent is his present custodian in Otisville Correctional Facility where Sandy is housed.

Because Sandy has filed his § 2241 petition in the wrong district court and has not

named the proper respondent, we shall dismiss his petition without prejudice to his right to bring a § 2241 *habeas* petition in the proper district naming the appropriate respondent.